

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STEVEN HUBACHER,

Plaintiff,

V.

LUCENT TECHNOLOGIES, INC.,

Defendants.

Case No. C05-5222RJB

ORDER TERMINATING
COUNSEL AND
PROVIDING DIRECTION
TO PLAINTIFF

This matter comes before the court on Defendant's Motion to Dismiss. Dkt. 18. The court has considered the relevant documents and the remainder of the file herein.

Plaintiff Steven Hubacher, through counsel Mary A. Betker, originally filed this case in Clark County Superior Court, alleging claims of Breach of Contract, Intentional Interference with Business Expectancy, Defamation and Discrimination against defendant Lucent Technologies, Inc. (Lucent). Dkt. 1. On March 24, 2005, Lucent removed the case to federal court on the basis of diversity of citizenship. Dkt. 5.

Since this case was filed, at least since it was removed to federal court, plaintiff has not complied with the court's scheduling orders, has not responded to Lucent's discovery requests, and appears to have abandoned this case. On February 13, 2006, the court issued an order granting Lucent's motion to deem matters admitted, and granting Lucent's motion to compel production of initial disclosures and discovery requests. Dkt. 16. On February 27, 2006, the court awarded \$2750 in sanctions to Lucent. Dkt. 17.

On March 14, 2006, Lucent filed a motion to dismiss, requesting that the court dismiss this action with prejudice for plaintiff's failure to pursue this litigation, including his failure to make Initial Disclosures

1 or provide responses to Interrogatories and Requests for Production. Dkt. 18. In that motion, Lucent
2 stated that The Washington State Bar website indicated that, as of February 16, 2006, Ms. Betker's bar
3 status was listed as "resigned in lieu of disbarment." Dkt. 18, at 6. A representative of the Washington
4 State Bar Association subsequently confirmed to the court that Ms. Betker had resigned in lieu of
5 disbarment on February 16, 2006.

6 Ms. Betker has not filed a motion to withdraw as counsel for Mr. Hubacher. In light of her
7 resignation from the Washington State Bar, the court should terminate Ms. Betker as counsel for Mr.
8 Hubacher in this case. In addition, Mr. Hubacher should be informed that he is now proceeding *pro se* in
9 this matter, at least until another attorney appears on his behalf in this matter. The court does not have Mr.
10 Hubacher's address on file. Ms. Betker should be ordered to provide a copy of this order, and the
11 attachments to this order, to Mr. Hubacher, and to provide Mr. Hubacher's address to the court.

12 **Mr. Hubacher is informed that he is now proceeding on his own behalf, without an attorney,
13 unless and until another attorney appears on his behalf. Lucent has filed a motion to dismiss; that
14 motion is noted for April 7, 2006. As a party to this action proceeding on his own behalf, Mr.
15 Hubacher is required to follow the Federal Rules of Civil Procedure and the Local Rules of the
16 United States District Court for the Western District of Washington. Under Local Rule CR 7(d),
17 any response Mr. Hubacher wishes to file must be filed with the court not later than April 3, 2006.**

18 **IF THE COURT DOES NOT RECEIVE A TIMELY RESPONSE FROM MR.
19 HUBACHER TO DEFENDANT LUCENT'S MOTION TO DISMISS (DKT. 18), OR IF ANY
20 RESPONSE HE FILES FAILS TO ADEQUATELY RESPOND TO THE ISSUES RAISED IN
21 THE MOTION TO DISMISS, THE COURT WILL DISMISS THIS CASE.**

22 Therefore, it is hereby

23 **ORDERED** that Mary A. Betker is **TERMINATED** as counsel for Mr. Hubacher. Ms. Betker is
24 **ORDERED** to send a copy of this order and the attachments to the order to Mr. Hubacher
25 **IMMEDIATELY**. Ms. Betker is **ORDERED** to provide the court with Mr. Hubacher's address
26 **IMMEDIATELY**. Mr. Hubacher may secure new counsel to appear on his behalf, but any such counsel
27 shall appear not later than April 3, 2006. In the absence of counsel appearing on his behalf, Mr. Hubacher
28 may file a response to Defendant's Motion to Dismiss (Dkt. 18) by April 3, 2006. If Mr. Hubacher fails to

1 file a timely response, or if any response he files fails to adequately respond to the issues raised in the
2 motion to dismiss, the court will dismiss this case.

3 The Clerk is directed to send uncertified copies of this Order to all counsel of record, including Ms.
4 Mary A. Betker, and to any party appearing *pro se* at said party's last known address. The Clerk is further
5 directed to attach Dkt. Nos. 18, 19, and 20 to this order.

6 DATED this 17th day of March, 2006.

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8 Robert J. Bryan
9 United States District Judge

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